

SENATE BILL NO. 392

INTRODUCED BY J. BALLYEAT

A BILL FOR AN ACT ENTITLED: "AN ACT REVISING THE SALARIES OF THE CHIEF JUSTICE AND JUSTICES OF THE MONTANA SUPREME COURT; AMENDING SECTION 2-16-403, MCA; AND PROVIDING AN EFFECTIVE DATE AND AN APPLICABILITY DATE."

WHEREAS, the people of Montana have always desired a citizen Legislature; and

WHEREAS, the people of Montana believe that citizen legislators, rather than career professional politicians, will enact laws more compatible with Montana values; and

WHEREAS, the people of Montana have taken great pains to ensure a citizen Legislature, including enacting term limits for legislators and limiting pay for legislators; and

WHEREAS, the Montana Supreme Court has embarked on an activist agenda of "legislating from the bench", rather than just adjudicating the facts and law; and

WHEREAS, the court's "legislation from the bench" has included lawmaking forays into environmental policy, school funding issues, taxation issues, retroactive overturning of voter-approved initiatives, legislating social policy and medical regulation, and numerous other areas that have previously been preserved by the people as the responsibility of their elected representatives under the separation of powers doctrine; and

WHEREAS, the only remaining avenue of redress to ensure that Montana laws are legislated by citizens rather than lifelong career politicians is to ensure that the court is also composed of "citizen legislators"; and

WHEREAS, limited pay is one means to ensure citizen representation in legislative bodies.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Section 2-16-403, MCA, is amended to read:

"2-16-403. Salaries of supreme court justices. ~~Prior to June 30 of each even-numbered year, the department of administration shall conduct a salary survey of justices and chief justices of the highest appellate courts similar to the Montana supreme court for the states of North Dakota, South Dakota, Wyoming, and Idaho. The department shall include the salary for a Montana supreme court justice or the chief justice in determining the average salary for a justice and the average salary for the chief justice. If the average salaries are greater~~

1 ~~than the salaries for a supreme court justice or the chief justice in Montana, then beginning July 1 of the year~~
2 ~~following the year in which the survey is conducted, the average salaries are the new salaries for a supreme~~
3 ~~court justice or the chief justice. A justice's salary or the chief justice's salary may not be reduced. The salary~~
4 ~~of the chief justice of the supreme court is the entry salary for a grade 11 position on the statewide pay schedule,~~
5 ~~as set forth in 2-18-312. The salary of a justice of the supreme court is the entry salary for a grade 10 position~~
6 ~~on the statewide pay schedule, as set forth in 2-18-312."~~

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8 NEW SECTION. **Section 2. Effective date.** [This act] is effective July 1, 2005.

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10 NEW SECTION. **Section 3. Applicability.** [This act] applies to salaries of justices who are elected to
11 the supreme court on or after [the effective date of this act].

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